THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.4977 of 1998

DATED: 13.06.2007

Between:

K. Shankar Rao .. Petitioner.

And

A.P.Residential Educational Institutions
Society rep. by its Secretary, III Floor,
Gagan Vihar, Nampally, Hyderabad,
and another. .. Respondents

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.4977 of 1998

ORDER:

In this writ petition, the petitioner sought for a Writ of Mandamus to declare the action of the respondents in not paying the pay scales attached to the post held by the petitioner from the date of his regular appointment i.e., from 02.06.1984 to 20.08.1993 as was done in the case of petitioners in W.P.No.3903 of 1994 & batch, dated 25.09.1996, as illegal, arbitrary and unconstitutional, and for issuance of a consequential direction to the respondents to forthwith pay arrears of salary to the petitioner from the date of his appointment.

2. In the affidavit filed in support of the writ petition, it is mentioned by the petitioner that in pursuance of the proceedings, dated 24.09.1983, the District Employment Officer, Nalgonda vide his letter, dated 07.04.1984, sponsored the eligible candidates including his name for the post of Contingent Kitchen Helper, and that on the recommendations of the Selection Committee, the Principal, A.P.Residential School, Choutuppal, Nalgonda appointed him as a Contingent Kitchen Helper by his proceedings, dated 02.06.1984, and that on his request, he was transferred and posted on 31.01.1991 to A.P.Residential School (BC-Boys), Nagarjunasagar, Nalgonda, the second respondent. The petitioner further averred that though he was appointed on regular basis, he was paid only Rs.238/- + allowances

towards salary and thereby he was denied the pay scale attached to the post in which he was appointed.

3. The Secretary of Andhra Pradesh Residential Educational Institutions Society filed a counter affidavit. It is stated therein that the petitioner was appointed by A.P.Residential School (Girls), Choutuppal, as Full Time Contingent Kitchen Helper during the month of June, 1984 with a consolidated pay of Rs.238/- + allowances fixed by the Government.

It is further averred that as per Recruitment Rules of the Society, the Principal is competent authority to appoint persons to the Non-Teaching posts upto the cadre of Junior Assistants through District Selection Committee under the Chairmanship of the District Collector and the Secretary is competent to give approval for panel of selection and to accord permission to issue appointment orders. As per the said rules, the petitioner has been appointed as a Contingent Kitchen Helper on 02.06.1984 and thereafter he has been transferred to A.P.R.School (BC), Nagarjunasagar, Nalgonda district, the second respondent herein, and that he was appointed on regular basis with a scale of Rs.238/- +allowances fixed by the Government while sanctioning his post.

It is further submitted that the first respondent sent proposals to the Government for its approval to allow minimum pay scale of Rs.740-1150/- to the Full Time Contingent employees who have completed five years of service as per the orders of the Government in G.O.Ms.No.344, and that the Government issued G.O.Ms.No.1413, Education (Prog.III) Department, dated 20.08.1993, accepting the proposals submitted by the first respondent for conversion of 157 Contingent posts into Last Grade Service posts, and that based on the said orders, all the Full Time Contingent employees, working in

various schools under the management of the first respondent Society, were given the minimum Pay Scale of Rs.740-1150/- from the date of G.O. i.e., 20.08.1993. It is also submitted that the first respondent issued absorption orders to the petitioner converting his service along with (157) Full Time Contingent employees into Last Grade Service posts as per the Government Orders in G.O.Ms.No.1413, Education (Prog.III) Department, dated 20.08.1993 and allowed minimum scale of pay of Rs.1375-2375/- with effect from 20.08.1993.

4. Heard Sri A.Venkataramana, learned counsel appearing for the petitioners, and Sri K.Durga Prasad, learned Standing Counsel for the respondents.

5. Learned counsel for the petitioner submitted that though the petitioner was appointed following the selection made by a duly constituted Selection Committee on 02.06.1984, there was no justification to deny him the regular pay scale attached to the post, in which he was appointed. He relied upon a Division Bench judgment of this Court in **M.Sudarshan Reddy v. The Special Officer, A.P.Residential School (BC), Doulathabad-II, Medak District**, W.P.No.3903 of 1994 & batch, dated 25.09.1996, in support of his contention that the petitioner is entitled to regular pay scale from the time of his regular appointment.

6. Learned Standing Counsel for the respondents submitted that, initially, the petitioner was appointed on regular basis with the scale of Rs.238/- + D.A., and that, later, respondent No.1 submitted proposals to Government seeking permission to allow minimum pay scale of Rs.740-1150/- to the Full Time Contingent employees, who have completed five years of service as per the orders of the Government in

G.O.Ms.No.344, and that the said proposals were accepted by the Government in G.O.Ms.No.1413, dated 20.08.1993. He, therefore, submits that the post held by the petitioner was converted from Contingent Kitchen Helper to Last Grade Service post with effect from 20.08.1993, and that regular pay scale is being paid to him with effect from 20.08.1993.

7. Having heard the respective submissions of the learned counsel, I am of the view that the petitioner is not entitled to the higher pay scale i.e., Rs.740-1150/- as revised to Rs.1375-2375/- from a date anterior to the date on which he is actually being paid by the respondents. A reading of the initial appointment order, dated 02.06.1984, clearly shows that his appointment was in the scale of pay of Rs.238/- per month. The petitioner accepted the said appointment. It is only later that proposals were sent for conversion of Contingent service posts into Last Grade Service posts, and from the time of acceptance of those proposals, the petitioner is being paid the regular pay scale. The petitioner did not deny the averment that for Contingent employees, no sanctioned pay scale is prescribed. I do not, therefore, see anything illegal on the part of the respondents in fixing the pay scale to the petitioner from the time of conversion of Contingent service into Last Grade Service by paying the pay scale attached to the said post. As regards the Division Bench judgment, on which reliance is placed by the learned counsel for the petitioner, the same may not advance the case of the petitioner for the reason that the direction contained in the said judgment is to the following effect:-

> "We have therefore no hesitation in allowing these writ petitions with a direction to the respondents to extend the benefit of pay-scales attached to the posts in which they are working and against which they have been

appointed on regular basis from the dates on which they were regularized."

8. In my considered opinion, the Division Bench has not held that the petitioners therein were entitled to the regular pay scale attached to the Last Grade Services even before the conversion of posts. The learned Standing Counsel submitted that even in the cases covered by the said judgment, the petitioners therein were not paid the regular pay scale before the conversion, and the learned counsel for the petitioner has not denied this submission.

For the aforementioned reasons, I do not see any reason to hold that the petitioner is entitled to the relief as sought for in the writ petition, and the writ petition is accordingly dismissed. No order as to costs.

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(C.V.NAGARJUNA REDDY,J)

Dt.13.06.2007
v v